

IN SENATE OF THE UNITED STATES.

MARCH 3, 1845.

Submitted, and ordered to be printed.

Mr. WOODBRIDGE made the following

REPORT:

[To accompany bill H. R. 544.]

The Committee on Public Lands, to whom was referred the bill (H. R. 544) "supplemental to an act for the relief of Jehu Hollingsworth, of Blount county, Alabama, approved June, 1838," report :

No testimony is exhibited in this case. But supposing the facts to have been fully and fairly established as they are set out in the House report (No. 118) accompanying this bill, does it furnish a proper case for legislative interference?

Jehu Hollingsworth had acquired real estate by purchase of the United States. He received the usual "final certificate," as evidence of his title, and before his death handed it over to his sister Margaret; but whether before his death the patent had emanated, does not appear. He died; and prior to his death he made certain parole declarations, purporting that he intended Margaret should have the land. Whether such parole declarations constitute a valid devise, according to the laws of the State where the land lies, does not appear. The presumption would seem to be, that they do not; and this presumption is strengthened by what is said in the report of the House committee. If they do not, the property would accrue to the heirs at law. If there be no other heir at law but Margaret, the land would accrue to her; and, as the legal owner of the property, she would probably be let into the benefit of the act of 1838, upon the production of the requisite proofs at the General Land Office. But if there were *other* heirs at law, they have rights in the premises, with which it does not seem to be competent for Congress thus to interfere. It is said to have been the *intention* of Jehu Hollingsworth to have caused his title papers to have been so changed as to vest the right in his sister. But of that intention Congress is not the most appropriate judge, especially as the determination of it might involve the rights of others. It would seem more appropriate that the decision should come from some judicial tribunal. But if it were otherwise, and if Congress were competent to take cognizance of such questions, it cannot escape instant observation that such a precedent would lead to the introduction of a mass of business which no Congress would probably be able to accomplish.

It is not intended to advance the opinion that this case might not, by the introduction of proper proofs, present such facts as would warrant the interposition of the National Legislature. But assuming that the report of the House contains a full and true statement of the facts, those facts do not seem to present such a case.

It is respectfully recommended, therefore, that the said bill be indefinitely postponed.

HOUSE OF REPRESENTATIVES, JANUARY 31, 1844.

Mr. HOUSTON made the following report :

The Committee on Public Lands, to whom was referred House bill No. 57, beg leave to report a substitute for said bill :

It appears in this case, from the best evidence the committee have been able to obtain, that Jehu Hollingsworth, previous to his entry of the land in question, was living with his sister, Margaret Hollingsworth ; that he was nearly blind, and unable to take proper care of himself, and threw himself upon the kindness of his said sister for her attention ; that he made the entry of land to provide them with a home ; and as he then and afterwards declared it was to belong to her, though the entry was made in his name, he continued to live with his said sister, availing himself of her care and attention as long as he lived, but neglected to change the titles to said land in a way recognised by the laws. Some time before his death, he handed to her his certificate of entry, but failed to write an endorsement upon it, so as to enable her to obtain a patent in her own name, or to avail herself of the benefits of the law of 1838, which had been passed for his relief ; that she yet holds said certificate, although, as before stated, she is unable to make it available.

Your committee think substantial justice requires the enactment of a law giving and extending to her all the privileges and advantages of the act of 1838, upon her complying in all things with the requisitions contained in the same, which were to have been performed by the said Jehu Hollingsworth.

Act approved June 28, 1838.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Jehu Hollingsworth, of Blount county, Alabama, be, and he is hereby, authorized to surrender the certificate of purchase or patent, which heretofore issued to him from the land office at Huntsville, in said State, for the southwest quarter of the northwest quarter of section number two, township number eleven, in range number three east, which was entered by said Hollingsworth by mistake ; and upon such surrender of said certificate or relinquishment filed of said patent (if one has issued) with the register of said land office, the said Hollingsworth shall be entitled to a certificate from the said register for the amount paid for said land entered by mistake ; which certificate shall be receivable in payment at said office for any other land in that land district subject to entry : *Provided*, said tract of land shall not have been sold or transferred, or shall not be subject to be disposed of by execution for the payment of the debts of the said Hollingsworth.*